

Serial No. 10/780,743
Amendment
Responsive to Office Action dated August 28, 2008

KAS-199

REMARKS

Pending Claims

Claims 9-10, 13-16, and 19 are pending. Claims 9 and 15 have been amended. No new matter has been added.

Claim Rejections Under 35 U.S.C. §112

Claims 9-10, 13-16 and 19 have been rejected under 35 U.S.C. §112, second paragraph. Applicants have amended claims 9 and 15 to clarify the relationship between the sample container, the reaction cuvette and the other elements. In particular, Applicants have amended claims 9 and 15 to set forth that a sample in a sample container is positioned at said sample suction position and discharged into a reaction cuvette that is moved and positioned at the sample discharging position using the plurality of sample probes. Accordingly, claims 9 and 15 have been rewritten in compliance with 35 U.S.C. §112, second paragraph, and therefore the rejection is overcome.

Claim Rejections Under 35 U.S.C. §102

Claims 9-10, 13-16 and 19 are rejected under 35 U.S.C. §102(b) as being anticipated by Itoh, U.S. Patent No. 5,445,037. Applicants request reconsideration of the rejection in view of the foregoing amendments and for the following reasons.

In addition to the amendments discussed above, Applicants have amended independent claims 9 and 15 to set forth that each of the sample probes has a moving path,

Serial No. 10/780,743

KAS-199

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such that the moving paths of the sample probes are different from each other and each of the sample probes moves between the sample suction position and the sample discharging position. Additionally, a plurality of washing ports is included for washing the sample probes and each of the washing ports is arranged at each of the moving paths. Support for the amendments can be found on pg. 15 lines 2-15 and with regard to Figs. 7-8, for example. The amendments clarify the differences between the invention as claimed and Itoh.

According to the embodiments of the present invention, sample probes 15, 16 move between a sample suction position and a sample discharge position along rails that form a closed loop. The sample probes move along rails in moving paths that each have a plurality of washing ports arranged at the moving paths. *See* Fig. 3, for example, which shows moving paths 65, 66, washing positions 63, 64, a sample container 61 at a sample suction position and a reaction cuvette 62 at a sample discharge position. As discussed with regard to Figs. 3 and 6 and pg. 15 lines 2-25, when sample probe 15 is sucking the sample, probe 15 is moved to the sample suction position where the sample is sucked from the sample container 61. Then, the sample probe 15 is moved to the sample discharge position 62 where the sample is discharged. In parallel to the movement of the sample probe 15 to the sample discharge position 62, the sample probe 16 starts moving from the washing position 64 toward the sample container 61. At this time, to prevent the sample probes 15, 16 from colliding with each other, the sample probe 15 is moved toward the sample discharge position 62 via the washing position 63. Likewise, after sucking the sample from the sample container 61, the sample probe 16 is moved toward the sample discharge position 62 via the washing position

Serial No. 10/780,743

KAS-199

Amendment

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64 for discharge of the sample. This allows for a plurality of sample probes to operate independently of each other and the time interval of sucking the sample from the sample container can be shortened.

Itoh does not disclose the sample dispensing apparatus or sample dispensing method for an analyzing apparatus as claimed in claims 9 and 15, respectively.

Itoh discloses guide bars 31, 37 that the suction unit bodies 32, 38 are mounted on. Applicants have taken the position that the guide bars 31, 37 are not equivalent to the rails claimed by applicants, which make a closed loop including the sample suction position and the sample discharge position. Applicants have amended claims 9 and 15 to further include that the sample probes have a moving path and that moving paths of the sample probes are different from each other, each of the sample probes being moved between the sample suction position and the sample discharge position. Further, applicants have amended claims 9 and 15 to include a plurality of washing ports for washing the sample probes, each of the washing ports being arranged at each of the moving paths.

Itoh does not disclose sample probes that move along rails which make a closed loop including the sample suction position and the sample discharge position, and that have moving paths that are different from each other, in combination with washing ports for washing the sample probes arranged at each of the moving paths, as claimed. According to the embodiments of the present invention, sample dispensing is made efficient and fast. For example, a first probe moving along path 66 can be washed at the washing position 64 while a second probe moving along the path 65 can dispense a sample into a reaction cuvette. See

Serial No. 10/780,743
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KAS-199

Figure 3 of the present application. Itoh does not disclose or suggest this aspect of the claimed combination.

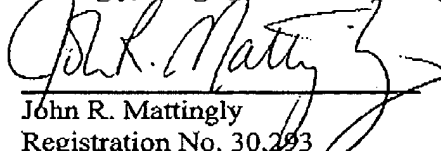
Method claim 15 is patentable over Itoh for the same reasons that claim 9 is asserted to be patentable over Itoh. Further, dependent claims 10, 13 and 14, which depend from claim 9 as a base claim, and claims 16 and 19, which depend from claim 15 as a base claim, are patentable over Itoh, at least since each of these dependent claims depends from a base claim asserted to be allowable for the foregoing reasons. Accordingly, the rejection under 35 U.S.C. §102(b) of claims 9, 10, 13-15, 16 and 19 should also be withdrawn.

Conclusion

In view of the foregoing, Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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Date: March 2, 2009